

The Flinn Report

Illinois

Regulation

Claire B. Eberle, Editor
Elaine Spencer, Assoc. Editor

Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Office Bldg., Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

VOL. 32

October 3, 2008

Issue 40

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

Proposed Regulations

☛ DO NOT RESUSCITATE FORMS

The DEPARTMENT OF PUBLIC HEALTH adopted an amendment to rules titled "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 31 Ill Reg 13322), effective 9/18/08 to implement Public Act 95-865, which changes the name of the Department of Public Health Uniform DNR [Do Not Resuscitate] Order to the Department of Public Health Uniform DNR Advance Directive. Those affected by this rulemaking include hospitals, emergency medical personnel, physicians, and other medical care providers.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov

☛ HOMELESS STUDENTS

The STATE BOARD OF EDUCATION adopted a new Part by emergency rulemaking titled "Education of Homeless Children and Youth State Grant Program" (23 Ill Adm Code 245; 32 Ill Reg 16264), effective 9/22/08, for a maximum of 150 days. An identical proposed rulemaking is published in this week's *Illinois Register* at 32 Ill

Reg 16240. The emergency rules implement a public act that provides \$3 million for homeless education. However, SBE states that it found this amount insufficient to fund all 869 eligible school districts on a formula basis and opted to institute this rule's competitive grant program instead. The emergency rulemaking makes funding available as soon as possible for the 2008-09 school year. The rulemaking defines eligibility criteria, proposal procedures and content, and SBE's review criteria for approval. Grants are for 3 years with subsequent funding contingent on appropriations and satisfactory progress by the district. When the appropriation is insufficient to fund individual programs, SBE states it will use the funds for statewide services and activities that are consistent with those under this Part. Charter schools may be affected by this rulemaking.

Questions/requests for copies/comments concerning the proposed rulemaking through 11/17/08: Gina Hopper (217/524-4832) for the emergency rulemaking and Sally Vogl (217/782-5270) for the proposed rulemaking, SBE, 100 N. First St., Springfield IL 62777, e-mail: rules@isbe.net

☛ SALES TAX

The DEPARTMENT OF REVENUE proposed amendments to "Retailers' Occupation Tax" (86 Ill Adm Code 130; 32 Ill Reg 16057) adding an expiration date to the reenacted graphic arts machinery and equipment exemption tax and the manufacturer's purchase credit (MPC). Both provisions originally expired 6/30/03 but were reenacted effective 9/1/04. Under the Retailers' Occupation Tax Act, exemptions, deductions, and credits automatically expire 5 years after the effective date unless renewed. Therefore, both will expire 8/31/09. The MPC earned in an amount of 50% of the purchase price applies to all manufacturers' production-related equipment. The MPC must be used no later than 6/30/10. Those affected by this rule-making include sellers of manufacturing and graphic arts machinery and equipment, as well as manufacturers and graphic arts producers.

☛ INCOME TAX

DOR also proposed an amendment to "Income Tax" (86 Ill Adm Code 100; 32 Ill Reg 16037) providing guidance on computing for income tax purposes the sales factor used in apportioning business income derived from the provision of telecommunications services. Receipts from calls are attributed to Illinois for tax purposes if: (1) they originate and terminate in

(cont'd next page)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☛: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of *The Flinn Report* or the *Illinois Register* will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

Proposed Regulations

Illinois or they originate or terminate in Illinois and the service address is located in Illinois; (2) they are post-paid at retail and the origination point is located in Illinois; (3) the prepaid card was purchased in Illinois or was recharged by the purchaser and the billing information is located in Illinois; or (4) the primary place of use of ancillary services is in Illinois, but if that is not determinable, then the location of the purchaser. Further, 50% of the receipts from service in which one termination channel is located in Illinois are considered to be in Illinois for tax purposes. If there are more than 2 channel points, the receipts will be attributable to Illinois pro rata. Similar provisions apply in the sale of services for resale. Those affected by this rulemaking include small businesses engaged in providing multistate telecommunications services.

Questions/requests for copies/comments through 11/17/08: Debra M. Bogess (217/782-2844) for Part 130 and Paul Caselton (217/524-3951) for Part 100, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794.

PRESCHOOL FOR ALL

The STATE BOARD OF EDUCATION proposed an amendment to "Early Childhood Block Grant" (23 Ill Adm Code 235; 32 Ill Reg 16236) that implements a new Public Act extending the Preschool for All (PFA) program for two additional fiscal years (from 6/30/08 to 6/30/10). The PFA program serves 3- and 4-year-olds in the State whose parents wish to participate, with an emphasis on funding programs that primarily serve children

who are at risk of academic failure and those who are from low-income families. Therefore, the PFA program essentially replaces the Prekindergarten Program for Children at Risk of Academic Failure for the purposes of funding any new preschool programs, according to SBE. Community organizations, day-care facilities, and charter schools may be among those affected by this rulemaking.

SBE PROGRAM REPEALERS

SBE proposed a repeal of its rules titled "Replacement of Required Rules" (23 Ill Adm Code 500; 32 Ill Reg 16243) in order to implement three new public acts. P.A. 94-875 eliminates the requirement that SBE approve districts' staff development plans. P.A. 94-1105 repeals the mathematics and science loan program and the urban education partnership program. P.A. 95-573 repeals rules governing professional development block grants, summer school for remedial education, comprehensive arts programs, an alcohol and drug education initiative, scientific literacy school technology grants, insurance for certificated employees, and alternative learning opportunities programs. The Part was originally adopted in 2005 to cover a number of programs that were not being funded but were still authorized in statute. With the passage of these 3 public acts, statutory authority for the programs no longer exists, and, therefore, SBE is repealing this Part.

SBE ACCOUNTING RULES

SBE also proposed the repeal of two Parts titled "Program Accounting

Manual" (23 Ill Adm Code 110; 32 Ill Reg 16103) and "Student Activity Funds and Convenience Accounts" (23 Ill Adm Code 125; 32 Ill Reg 16218) and proposed amendments to two other Parts titled "Determining Special Education Per Capita Tuition Charge" (23 Ill Adm Code 130; 32 Ill Reg 16226) and "Regional Offices of Education and Intermediate Services" (23 Ill Adm Code 525; 32 Ill Reg 16248). These four rulemakings reflect the abolition of the former program accounting manual in Fiscal Year 2009. A new Part titled "Requirements for Accounting, Budgeting, Financial Reporting, and Auditing" (23 Ill Adm Code 100) became effective on 10/19/07 and replaced the manual. The repeal of Parts 110 and 125 removes the text of the obsolete manual, while amendments to Parts 130 and 525 update cross-references to the new Part. Additional amendments to Part 525 require expenditures by regional superintendents and the Chicago Intermediate Service Center to be audited by the Auditor General; repeal a requirement that unexpended funds held by those entities at the end of a funding period be returned to SBE within 45 days; and require that left-over funds from conference or workshop registration fees be set aside to cover the cost of similar events that fall short of expected registration levels. SBE states that these amendments reflect its current procedures.

Questions/requests for copies/comments concerning the six SBE rulemakings above through 11/17/08: Sally Vogl at the SBE address and telephone number above.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's Thursday, October 16, 2008 meeting.

SECRETARY OF STATE

"Uniform Limited Partnership Act (2001)" (14 Ill Adm Code 171) proposed 8/8/08
(32 Ill Reg 13156)

ILLINOIS GAMING BOARD

"Riverboat Gambling" (86 Ill Adm Code 3000) proposed 7/11/08 (32 Ill Reg 9776)

"Riverboat Gambling" (86 Ill Adm Code 3000) proposed 7/18/08 (32 Ill Reg
10773)

"Riverboat Gambling" (86 Ill Adm Code 3000) proposed 7/25/08 (32 Ill Reg
11285)

JCAR 2007 ANNUAL REPORT

The Joint Committee on Administrative Rules' 2007 annual report is now available. The report summarizes agency rulemaking, JCAR actions, and public act reviews in addition to legislative and judicial actions that affected rulemaking.

Copies of the 2007 Annual Report of the Joint Committee on Administrative Rules are available to the public. The volume may be ordered for \$2.07 (\$4.30 with postage included) by sending a check to JCAR at the address listed on the front of this newsletter. It is also available online at our website at www.ilga.gov/commission/jcar

The Flinn Report

Illinois General Assembly

Illinois

Regulation

Joint Committee on Administrative Rules
700 Stratton Building Springfield IL 62706

PRSRT STD

U.S. Postage

PAID

Springfield IL

Permit NO. 870

Joint Committee on Administrative Rules

Senator J. Bradley Burzynski

Representative John Fritchey

Senator James F. Clayborne, Jr.

Representative Brent Hassert

Senator Maggie Crotty

Representative Louis Lang

Senator Randall Hultgren

Representative David Leitch

Senator Dan Rutherford

Representative David Miller

Senator Ira Silverstein

Representative Rosemary Mulligan

**Vicki Thomas
Executive Director**